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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

PACIFIC SUNSHINE DEVELOPMENT,
LLC,

Plaintiff and Respondent,

v.

BRIAN JAMES LILLIE et al.,

Defendants and Appellants.

H045653*

(Santa Cruz County

Super. Ct. No. 17CV01895)

Defendants Brian James Lillie and Richard Bain appeal from a January 2018 preliminary injunction preventing them from selling or transferring assets in a civil fraud/breach of contract case. The order directed plaintiff Pacific Sunshine Development, LLC to post a \$100,000 bond to cover defendants' costs and fees in the event they successfully procured a final decision dissolving the injunction. Shortly after the appeal was placed on this court's conference list, a trial was held in the superior court and a permanent injunction and final judgment were entered in favor of plaintiff. Defendants have not responded to our invitation for supplemental briefing regarding whether the appeal is now moot. Plaintiff filed a motion to dismiss the appeal and for release of the \$100,000 bond it posted in the superior court as a condition of the preliminary injunction.

Plaintiff's motion to dismiss this appeal is granted. The appeal is moot. (*Paul v. Milk Depots, Inc.* (1964) 62 Cal.2d 129, 134 ["when a case becomes moot pending an

*The court finds this appeal suitable for resolution by memorandum opinion. (See Standards of Judicial Administration, Title 8, Standard 8.1.)

appellate decision ‘the court will not proceed to a formal judgment, but will dismiss the appeal’ ”]; *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 110 [preliminary injunction appeal mooted by entry of final judgment]; *People v. Morse* (1993) 21 Cal.App.4th 259, 264–265 [same].) Plaintiff is entitled to the release of the bond posted in connection with the preliminary injunction.

DISPOSITION

The appeal is dismissed. The superior court shall release to plaintiff Pacific Sunshine Development, LLC. the \$100,000 bond posted in January 2018. The parties shall bear their own costs on appeal.

Grover, J.

WE CONCUR:

Greenwood, P. J.

Danner, J.